

APPENDIX II

Summary
of
Opinions

Adams, Janet, California Coastal Alliance, Inc.
(1976) 2 FPPC Ops. 127 75-173

A lobbyist may perform volunteer personal services on behalf of an elected state officer who is campaigning for election to local office so long as, while doing so, the lobbyist does not engage in any of the activities prohibited by Section 86202. The definition of contribution excludes volunteer personal services and this exclusion is applicable to lobbyists.

Alperin, Anthony Saul, Deputy City Attorney, Los Angeles
(1977) 3 FPPC Ops. 77 76-084

Section 87309(c) prohibits code reviewing bodies from exceeding the requirements of Section 87302 by approving conflict of interest codes which designate positions that do not entail the “making or participating in the making of governmental decisions,” or which require disclosure of financial interests that may not foreseeably be affected materially by the decisions made or participated in by employees holding any designated position.

Atlantic-Richfield Co.
(1975) 1 FPPC Ops. 147 75-078-A

The first lobbyist reports required to be filed under the Act must cover all of the activities of the lobbyist for the month in which the lobbyist first qualified or registered as a lobbyist.

Augustine, John H., Union Oil Co.
(1975) 1 FPPC Ops. 69 75-064

A committee is required to have a treasurer. However, there is no requirement that the person designated “committee treasurer” of a corporation who qualifies as a committee be the same person who for corporate purposes holds the title “treasurer.” Any responsible person may be named for verifying and signing campaign reports.

Baty, David R., Municipal Court Judge, Marin County
(1979) 5 FPPC Ops. 10 77-011

The corporations in question are headquartered outside the state but have manufacturing or distribution facilities in the state and sell products throughout the state on a regular basis. Their duties qualify them as doing

business in the jurisdiction and thus make investments of \$1,000 or more in those corporations reportable.

Bell, Charles H., California Political Attorneys Assn.
(1988) 11 FPPC Ops. 1 88-002

Proposition 73, enacted by a greater number of affirmative votes, prevails over Proposition 68 where the two measures conflict. Contribution limits of Proposition 68 do not survive passage of Proposition 73.

Note: The Court of Appeal in Taxpayers to Limit Campaign Spending v. FPPC (Case No. B039177) ruled that numerous provisions of Proposition 68 are not in irreconcilable conflict with Proposition 73, and therefore survive passage of Proposition 73. The California Supreme Court in Taxpayers to Limit Campaign Spending v. FPPC, 51 Cal.3d 744 (1990), reversed the court of appeal and held that only the provisions of the measure receiving the highest affirmative vote became operative upon adoption; thus Proposition 68 was inoperative in its entirety.

Biondo, Vincent F. Carlsbad
(1975) 1 FPPC Ops. 54 75-036

A mayor who owns stock in a gas and electric company may not participate in decisions relating to the company. The mayor is prohibited from participating in decisions and from chairing meetings during consideration of such matters.

Chairing the meeting would constitute participation pursuant to Section 87100 and would be prohibited.

Blenkle, Joe, Western Fairs Assn.
(1975) 1 FPPC Ops. 37 75-023

A nonprofit organization which promotes fairs may continue to give gifts of lifetime fair credentials to public officials so long as the gifts are made by a board acting completely independently of the manager and executive secretary, who are registered as lobbyists for another organization. The lobbyists may not participate in the making of the gifts.

Board of Directors, Marin Municipal Water District
(1975) 1 FPPC Ops. 198 75-089

Directors of a municipal water district who hold significant interests in business entities which may be affected by the district’s decisions on requests for variances and the lifting of a moratorium on new water

connections must disqualify themselves when the decisions will have a foreseeable material financial effect, distinguishable from their effect on the public generally, on the directors' interests.

Bonfa, Don, City Attorney, Huntington Beach
(1976) 2 FPPC Ops. 146 76-033

A project area committee is not a "local government agency" since it can neither initiate nor veto governmental action, but rather only makes nonbinding studies and recommendations; it does not have decision-making authority within the meaning of 2 Cal. Code of Regs. Section 18700(a)(1).

OVERRULED by Rotman, Doreet
10 FPPC 1 (No. 86-001, May 12, 1987)

Boreman, Gilbert H., Registrar of Voters, San Francisco
(1975) 1 FPPC Ops. 101 75-056

A registrar of voters should accept a declaration of candidacy which is filed without the required financial disclosure statement, but should notify the candidate of the requirement to file a disclosure statement and of the penalties for filing late.

Brown, F. MacKenzie, City Attorney, San Clemente
(1978) 4 FPPC Ops. 19 77-024

Although ownership of land in a municipal improvement district may not result in disqualification in every case, under the facts of this case it is reasonably foreseeable that decisions concerning the formation of and assessment for the municipal improvement district will have a material financial effect, distinguishable from its effect on the public generally, on the financial interests of the council members who own property in the district. Therefore, the council members may not participate in any decisions concerning formation of or assessments for the district.

Downtown commercial property owners do not constitute a significant segment of the public generally in a situation in which approximately 50 percent of the commercial property in the city is located outside the proposed downtown assessment district and in which downtown commercial property owners will reap direct benefits and incur direct costs that will not be shared by other commercial property owners in the city.

Brown, Willie, Assemblyman
(1975) 1 FPPC Ops. 67 75-055

Payments made to a legislator for transportation or attendance at various meetings connected with his political activities are not reportable on the candidate's campaign statements so long as they are made for bona fide political expenses and are reported by the campaign committee. Such payments are neither gifts nor income within the meaning of Section 87207.

Buchanan, Douglas, Attorney
(1979) 5 FPPC Ops. 14 78-013

When a candidate uses his personal funds to pay expenses for litigation aimed at maintaining his status as a candidate, the payments should be reported by the candidate as a contribution to himself.

Bunyan, S. Wyanne, Secretary of State's Office
(1976) 2 FPPC Ops. 10 76-003

If each voter receives a copy of the English language state ballot pamphlet, the minority language translations need not comply with the content and format requirements of the Political Reform Act; if the minority language translations are part of the ballot pamphlet, the requirements of Section 88005 must be observed. The purpose of providing a clear and understandable ballot pamphlet to the average voter would be frustrated if English, Spanish and Chinese provisions were intermingled.

Burciaga, Donald C. The Friends of Alex V. Garcia
(1976) 2 FPPC Ops. 17 75-161

A merchant who permits a candidate to distribute to the voters a coupon which provides price discounts when it is presented to the merchant in connection with the purchase of specific goods or services has not made a contribution because the merchant received full and adequate consideration in the form of free advertising, the prospect of volume sales and the possibility that customers will purchase other goods and services when redeeming their coupons.

All expenditures incurred in connection with the publication and distribution of the newsletter and accompanying coupons must be reported by the candidate on his campaign statement.

California Labor Federation, AFL-CIO
(1975) 1 FPPC Ops. 28 75-004

Organizations like the California Labor Federation are not lobbyists and, as employers of lobbyists, are not prohibited from making political campaign contributions. Officers of the Federation who are lobbyists may not participate in the making of Federation endorsements of candidates because the endorsement process is so closely related to the ultimate contributions as to constitute arranging contributions. A lobbyist may not serve as the chairman or director of an organization whose chief activities include the making of political contributions.

Note: The California Supreme Court in FPPC v. Superior Court (IGA), 25 Cal. 3d 33 (1979), ruled that Section 86202 which prohibited lobbyists from making political contributions is unconstitutional.

California Republican Party
(1999) 13 FPPC Ops. 1 0-99-047

Funds raised for a political party from an agreement with a credit card issuer may not be a "contribution" under the Political Reform Act if full and adequate "consideration" exists. Under these facts, consideration exists because as part of its agreement with the party, the credit card issuer receives mailing lists, a free booth at party conventions, and advertising space in party publications, and in exchange the party receives a licensing fee for each new account and a small percentage of each new customer's monthly credit card bill. This conclusion assumes that no party literature is sent with the credit card solicitations and the party does not receive terms more favorable than those received by other fund-raising sponsors involved in similar arrangements. There is no presumption that full and adequate consideration exists in business transactions such as the one between a political party and a credit card issuer.

Callanan, Sands and Hill
(1978) 4 FPPC Ops. 33 77-036

Industry members of the Funeral Board are not required to disqualify themselves from consideration of a motion to require consent of next of kin before embalming because the funeral industry constitutes a significant segment of the public and, consequently, the effect of the decision will not be distinguishable from its effect on the public generally.

Cannon, W. Dean, Jr., Committee for Support of ACA31
(1976) 2 FPPC Ops. 133 76-001

Certain payments made in connection with the mailing of political advertisements by savings and loan associations to their customers are expenditures and, therefore, are includable for the purpose of determining whether a member association is a committee. Certain payments made in connection with displaying counter signs are expenditures and, therefore, are includable for the purpose of determining whether a member association is a committee.

Carey, Scott T., Councilmember, Palo Alto
(1977) 3 FPPC Ops. 99 76-087

To determine the pro rata share of income from a real estate brokerage firm in order to determine whether the fee paid by any one client meets the \$1,000 reporting threshold: (1) the percentage the firm pays to the salesperson who produced the commission may first be deducted; (2) overhead expenses incurred by the firm may not be deducted; and (3) the ownership interest percentage should be used.

Note: The California Supreme Court in Hays v. Wood, 25 Cal. 3d 772 (1979), ruled that Section 87207(b)(2) which required attorneys and brokers to disclose certain clients at the \$1,000 threshold is unconstitutional.

Carothers, Wayne T., California Teachers Assn.
(1975) 1 FPPC Ops. 122 75-123

A lobbyist who runs for state office does not create any legal liabilities for his employer but may impose additional reporting requirements on the employer. The salary paid to the lobbyist is an exchange with a state candidate and must be reported. Thus, if the lobbyist continues to work as a lobbyist during the time he is running for elective state office, his employer must report salary payments to him both as exchanges with a state candidate and as a lobbyist's salary.

The unlawful gift prohibitions do not apply when a lobbyist running for elective state office makes, acts as an agent or intermediary in the making, or arranges for the making of a contribution to himself or his controlled committees.

Carson, John M., Attorney
(1975) 1 FPPC Ops. 46 75-031

The process of trademark registration is “quasi-judicial” rather than “quasi-legislative.” Thus, an attorney’s activities in registering clients’ trademarks do not constitute attempting to influence administrative action and the attorney need not register as a lobbyist.

Christiansen, James R., Goleta Valley Today
(1975) 1 FPPC Ops. 170 75-082

A newspaper editorial is neither a contribution nor an expenditure. Therefore, a newspaper publisher is not required to file campaign statements by reason of publishing editorials. However, the costs of reproducing an editorial in an advertising circular, flyer or handbill which does not routinely contain news of a general character and of general interest may be reportable as an expenditure.

Cline, Robert C., Assemblyman
(1975) 1 FPPC Ops. 150 75-093

An exchange between a lobbyist and an official involving the breeding of their dogs does not need to be reported because the contract was entered into before the effective date of the Act.

Cohen, Les H., Advocaton, Inc.
(1975) 1 FPPC Ops. 10 75-006

The selection of a contractor for the mailing of a legislator’s newsletter does not constitute legislative action. Therefore, employees of the contract mailing firm are not required to register as lobbyists.

Cory, Kenneth, State Controller
(1975) 1 FPPC Ops. 99 75-047

The receipt of a parking pass from the California State University for use while on official business at any university or campus is a reportable gift and is valued at the fair market value of the item.

OVERRULED by Thomas
(1977) 3 FPPC Ops. 30

Cory, Kenneth, State Controller
(1976) 2 FPPC Ops. 48 75-094-A

Gifts received by the spouse of an elected state officer are the separate property of the spouse and do not have to be disclosed. Gifts to the children are not income to

the state officer and do not have to be disclosed. However, a gift ostensibly made to the spouse or dependent child of an elected official will be considered a gift to the official if the nature of the gift is such that (1) the official is likely to enjoy direct benefit or use of the gift to at least the same extent as the donee; (2) the official in fact enjoys such direct benefits or use; and (3) there are no additional circumstances negating an intent to make an indirect gift to the official.

Cory, Ken, State Controller
(1975) 1 FPPC Ops. 153 75-094-B

A public official may determine the value of a unique gift by making a reasonable estimate based on a good faith effort; there is no need to retain the services of an outside appraiser.

Volunteer assistance received by a public official from a neighbor in repairing a fence or structure is not considered a gift.

Cory, Kenneth, State Controller
(1975) 1 FPPC Ops. 137 75-094-C

A public official has no reporting obligations by virtue of attending a political fund raising dinner at the invitation of the sponsors without purchasing a ticket. This conclusion is not altered by the fact that the public official attends the dinner for the specified purpose of making a speech.

In determining the value of unique items received as gifts by a public official, a reasonable estimate based on a good faith effort to ascertain the value of the gifts will suffice. There is no need to retain the services of an outside appraiser.

Curiel, Robert D., Humboldt County Counsel
(1983) 8 FPPC Ops. 1 83-003

An agency, other than a “legislative body” as defined in 2 Cal. Code of Regs. Section 18438. 1 (a), is a “quasi-judicial board or commission” within the meaning of Government Code Section 84308 when it engages in “quasi-judicial” proceedings, as that term has been defined by the courts.

Dennis-Strathmeyer, Jeffrey A.
(1976) 2 FPPC Ops. 61 75-117

Candidates for federal office are required to file copies of campaign statements only with those persons specified by federal law.

Dixon, Elliott J.

(1976) 2 FPPC Ops. 70 75-187

A lobbyist may perform volunteer personal services on behalf of an elected state officer who is campaigning for election to local office so long as, while doing so, the lobbyist does not engage in any of the activities prohibited by Section 86202. The definition of “contribution” excludes volunteer personal services and this exclusion is applicable to lobbyists.

Note: The California Supreme Court in FPPC v. Superior Court (IGA), 25 Cal. 3d 33 (1979), ruled that Section 86202 which prohibited lobbyists from making political contributions is unconstitutional.

Elmore, Gilbert E., Administrative Law Judge

(1978) 4 FPPC Ops. 8 77-021

Earnings of sums withheld from salary by the state pursuant to the retirement system and the various deferred compensation plan options held for ultimate distribution after retirement are not income.

Sums withheld by the state pursuant to the Public Employees Retirement System are not investments.

Evans, James L., United Transportation Union

(1978) 4 FPPC Ops. 54 78-008-A

(1) In determining whether an employee of an entity has become a lobbyist pursuant to 2 Cal. Code of Regs. Section 18239 or determining whether an employee has spent 10 percent of his compensated time in lobbying activity pursuant to 2 Cal. Code of Regs. Section 18620, all the time spent attending an administrative hearing should be counted. (2) Pursuant to 2 Cal. Code of Regs. Section 18239(e)(3)(B), a person becomes a lobbyist by spending a total of 40 hours in administrative testimony before one or more agencies and a total of one hour in direct contact with the officials of the agency or agencies to which the administrative testimony was directed.

In determining whether an employee of an entity has become a lobbyist, the time spent by an agent or other employee of that entity should be attributed to the employee only if the agent or other employee acts under the direct supervision or direct orders of the employee in order to aid or promote the employee’s lobbying activity.

A state agency should be listed on a lobbyist’s registration statement if it is foreseeable that the lobbyist will attempt to influence that agency.

A lobbyist employer must report lobbying activity and expenses of an employee in connection with attempts to influence an agency not listed on the registration statement of the employer’s lobbyist if the lobbyist employer also qualifies as a \$250 filer.

Note: Legislation has changed the Act so that only persons who spend \$5,000 in a quarter (rather than \$250 a month) need file.

Evans, J. L., United Transportation Union

(1978) 4 FPPC Ops. 84 78-008-B

Proceedings before the PUC involving Southern Pacific and Airporttransit passenger service are not administrative action. However, under the circumstances presented here, the PUC proceedings pursuant to an Order Instituting Investigation and examining Southern Pacific commuter services are administrative actions. Because the Southern Pacific discontinuance proceedings are combined with proceedings pursuant to the Order Instituting Investigation, the discontinuance proceeding must be considered administrative action.

Ferraro, John, Councilmember, Los Angeles

(1978) 4 FPPC Ops. 62 78-009

The interests of owners of three or fewer rental units will not be affected by a rent control ordinance in a manner distinguishable from the effect upon a significant segment of the public generally, and therefore the councilmembers are not disqualified from participating in decisions regarding the rent control ordinance. Since each councilmember in this case owns only one rental unit, each may participate in and vote on the rent control ordinance.

Fontana, Mark, Isla Vista Community Council

(1976) 2 FPPC Ops. 25 75-162

A reorganization proposal which is not placed on the ballot until approved by the local agency formation commission and board of supervisors does not become a measure until the supervisors order it placed on the ballot. Consequently, expenditures in support of the proposal made prior to that time do not have to be reported. This conclusion would be the same whether or not the proposal ultimately is placed on the ballot.

Galligan, Joe, City Councilmember, Burlingame
(2000) 14 FPPC Ops. 1 0-00-045

On the facts presented, it was not reasonably foreseeable that a decision whether to certify an environmental impact report would have a material financial effect on a city council member's economic interest in the bank that held the mortgage on the subject property. Additionally, the Commission decided not to interpret Regulation 18706, which requires that the material financial effect occur *as a result* of the governmental decision, to require that the effect be one that would not occur but for the decision. Instead, the only causation required is that enunciated in *In re Thorner*: that a material financial effect be substantially likely. ((1975) FPPC Ops. 198.)

Gilchrist, John P.
(1975) 1 FPPC Ops. 82 75-014

No reporting requirements apply to the spouse of a lobbyist who is engaged in a business which provides a reception attended by legislators and state officials so long as the spouse does not act as the lobbyist's agent and does not arrange for gifts to the officials.

Gillies, Dugald, Calif. Assn. of Realtors
(1975) 1 FPPC Ops. 110 75-062

The California Association of Realtors is sponsoring a luncheon which will be attended by approximately 700 persons, including about 70 legislators. The legislators will be invited as guests of the association. The other attendees will pay for the cost of their luncheon tickets. The cost of the tickets will be set at an amount to offset the cost of the guests and other overhead. In reporting the cost of the luncheon, the association must report the name of each legislator who attended as a guest and the total amount paid for their benefit. The Act does not require an individual listing of the value accruing to each beneficiary. It is not necessary for the name of every person attending and participating to be listed as a beneficiary.

Note: The California Supreme Court in FPPC v. Superior Court (IGA), 25 Cal. 3d 33 (1979), ruled that former Section 86107(d) and (e) and former Section 86109(d) and (e), which required the reporting of exchanges, are unconstitutional.

Gillies, Dugald, Calif. Assn. of Realtors
(1975) 1 FPPC Ops. 165 75-063

A payment of \$250 or more during a month made by a local board of realtors to reimburse individuals for expenses incurred in attending Legislation Day and an

association board of directors meeting is a payment to influence legislative or administrative action. This conclusion is not altered by the fact that the legislator pays the cost of his own dinner.

Local real estate boards which spend \$250 or more during a month to reimburse their members for expenses incurred in attending a Legislative Day sponsored by the California Association of Realtors and an association board of directors meeting would not become employers of lobbyists but would be required to file reports pursuant to former Section 86108(b) (now Section 86115(b)).

Note: Legislation has changed the Act so that only persons who spend \$5,000 in a quarter (rather than \$250 a month) need file.

Gillmor, Gary G., Mayor, Santa Clara
(1977) 3 FPPC Ops. 38 76-089

Redevelopment zones are created for the precise purpose of upgrading portions of a community and creating a positive financial impact on investments and property values in the zone. Thus it is intended and anticipated that redevelopment will have a financial impact on real property and businesses located in and near the redevelopment zone and such positive financial effects are therefore reasonably foreseeable.

Goddard, Merle J., Institute of Governmental Advocates
(1978) 4 FPPC Ops. 1 77-004

Luncheons sponsored by a lobbying organization do not constitute arrangement for gifts in excess of \$10 per month. This is based on the fact that attendance at the luncheons by legislators was a random and infrequent occurrence. However, if the facts indicated an explicit or implicit agreement or understanding among the members to make gifts to an official totaling more than \$10 per month, it would be a prohibited arrangement.

Goodwin, Robert E., Goleta County Water District
(1975) 1 FPPC Ops. 24 75-032

The words "compensation" and "salary" are equivalent. Elected officers are exempt from filing reports only if their actual average income for the previous six-month filing period is less than \$100 per month.

Green, Donald C.
(1975) 1 FPPC Ops. 86 75-098

A lobbyist who advises his employer concerning the making of political campaign contributions has not

“arranged” for the making of a contribution unless (1) the lobbyist communicates with the employer with the intent of influencing the employer’s decisions to make contributions and a contribution is made by the employer, and (2) the communication was an element in the making of the contribution. This test does not apply to factual material readily available to members of the public, such as voting and legislative records of public officials. Dissemination of factual information concerning a public official’s voting record is not prohibited.

Grunsky, Donald L., Senator

(1975) 1 FPPC Ops. 158 75-115

A lobbyist employer must report exchanges with a business entity in which an elected official is a partner when the total value of such exchanges is \$1,000 or more for that part of the calendar year that a lobbyist is employed.

Gutierrez, Annie M., Agricultural Labor Relations Board

(1977) 3 FPPC Ops. 44 76-081

By attending a reception given by a group of friends to celebrate his appointment to the bench, a judge received a gift which was equal to the per capita cost of giving the reception. In this case, the gift is not reportable because the per capita cost was less than \$25 per person.

Hardie, George G., Golden State Greyhound Assn.

(1975) 1 FPPC Ops. 140 75-003

A person who receives no economic consideration, other than reimbursement for reasonable travel expenses, does not come under the definition of a lobbyist.

Hayes, Mayor Janet Gray, Dinner Committee

(1975) 1 FPPC Ops. 210 75-145

The proceeds from fundraising dinners retain their classification solely as campaign contributions and expenditures and are not gifts so long as they are used to support those activities related to the officeholder’s responsibilities as an elected official and a future candidate.

Herr, Robert C., Del Monte Corporation

(1977) 3 FPPC Ops. 11 75-208

When salary payments to board members are reportable they are reportable as exchanges and not as payments to influence legislative or administrative action. Salary paid

to an employee who serves on a board is an exchange if the board is a state agency because the member is an agency official. The exchange is reportable if the amount of salary paid to the employee exceeds \$1,000 in a calendar year. The employer must report exchanges with other business entities which are represented on boards by their proprietors, partners, directors, officers, managers or persons having more than a 50 percent interest if the board is one which the employer attempts to influence within the meaning of 2 Cal. Code of Regs.

Section 18600 and if the value of an exchange or exchanges with any such business entity exceeds \$1,000 in a calendar year.

Public officials who are employees of Del Monte Corp. serving on agricultural boards and commissions are exempt, to the extent they are acting within the scope of their official duties, from the lobbyist reporting requirements. This exemption does not alter Del Monte’s responsibility to report salary payments to such officials as exchanges.

Note: The California Supreme Court in FPPC v. Superior Court (IGA), 25 Cal. 3d. 33 (1979), ruled that former Section 86107(d) and (e), and Section 86109(d) and (e), which required reporting of exchanges, are unconstitutional.

Hicks, Joyce M., Assistant City Attorney, Oakland

(1999) 13 FPPC Ops. 11 0-99-314

The “rule of legally required participation” in Section 87101 does not apply to certain decisions made by the Mayor of Oakland pursuant to the City’s Charter.

WITHDRAWN on November 3, 2000, in accordance with the writ of mandate issued by the First District Court of Appeal in the matter *Jerry Brown v. Fair Political Practices Commission*, (2000) 84 Cal.App.4th 137.

Hopkins, William P., City Attorney, Anaheim

(1977) 3 FPPC Ops. 107 77-022

Free tickets and passes which are customarily sent to city councilmembers and other city officials must be disclosed if they are worth \$25 or more, unless they are not used at all and are returned to the donor within 30 days. This rule applies even if they are never used, used only occasionally or are given to some other person.

The value of the tickets and passes is the fair market value; the Commission set forth factors to be considered in determining fair market value. The donor of a complimentary ticket which has a fair market value of

\$250 or more is a source of income and, accordingly, the disqualification provisions would be applicable. The rule of necessity set forth in Section 87101 does not apply to a conflict of interest that arises because of gifts an official has accepted if it was reasonably foreseeable at the time the gift was received that the official would be asked to make or participate in a decision affecting the donor. The need for disqualification in these situations should be assessed under the standards set forth in Sections 87100 and 87103.

Horn, Rolf H., Del Monte Corp.
(1975) 1 FPPC Ops. 126 75-029

The pro rata share of a lobbyist's registration fee for a seminar which is used for honoraria for legislators and agency officials is not a gift or contribution because the seminar represented equal consideration for the registration fee. Furthermore, the registration/honoraria payments would not be reportable exchanges because they were independent transactions with the sponsors of the seminar. However, if the registration fee is paid through the lobbyist account it must be reported.

Hudson, Matthew, City Attorney, Anaheim
(1978) 4 FPPC Ops. 13 77-007

If a board cannot, as a result of board member disqualification, obtain a quorum in order to make decisions it is legally required to make, the board may bring back as many disqualified members as is necessary to establish a quorum. The preferred means of selecting which disqualified member should participate is by lot or other means of random selection. However, nothing in the Act prevents the use of other impartial and equitable means of selection.

Institute for Governmental Advocates
(1982) 7 FPPC Ops. 1 81-003

A lobbyist is acting as an agent in, or arranging for, the making of a gift by another when he or she: (1) takes any action involving contact with a third party which facilitates the making of the gift; (2) has any contact with the public official who is to be the recipient of the gift which facilitates the making of the gift.

Johnson, Ross
(1989) 12 FPPC Ops. 1 89-001

An Assembly member, who is a defendant in a civil lawsuit challenging the outcome of an election, will incur considerable legal expenses. Contributions raised to

finance his legal defense are contributions subject to the limits of Proposition 73.

Juvinall, Ralph, Republican Consultants
(1976) 2 FPPC Ops. 110 75-018-A

Once a person is a candidate, the mass mailing sender identification provisions apply regardless of whether the person has officially made a declaration of candidacy. Nothing in the Act prevents a candidate from delaying the declaration of candidacy to the 83rd day prior to the primary election, the last possible day on which a declaration must be filed.

The official newsletter of the Republican Central Committee of Orange County does not fall within the definition of "mass mailing" because it is sent only to subscribers who have requested it.

Kahn, Harry H., American Building, Maintenance Industries
(1976) 2 FPPC Ops. 151 75-185

When contributions are made by a parent corporation and its wholly owned subsidiaries, it is assumed that they are a "combination of persons." Accordingly, a parent corporation and its subsidiaries ordinarily must file campaign statements as a major donor committee if their combined contributions total \$5,000 or more in a calendar year. A contrary conclusion can be reached only when it is clear from the surrounding circumstances that the parent corporation and its subsidiaries acted completely independently of each other. If the parent corporation made no contributions, the conclusion would be the same.

Kavanagh, Dennis, A-K Associates, Inc.
(1975) 1 FPPC Ops. 42 75-028

It is prohibited for four lobbyists to host one dinner per month for legislators, even though no lobbyist spends more than \$10 per legislator per month because the dinners are arranged by the lobbyists jointly and the lobbyists would therefore be arranging for the making of a gift by other persons aggregating more than \$10 per month per person.

Kelly, Carl A., County Clerk, El Dorado
(1975) 1 FPPC Ops. 162 75-134

The deposit of money with the clerk's office is an advance payment for services to be rendered and must be reported pursuant to Sections 84200, et seq., unless

the refund is received by the candidate prior to the closing date for filing the first campaign statement.

A person seeking elective office under the uniform District Election Law who is subsequently appointed to office need not file campaign statements unless funds are received or expended by that person or on his or her behalf with a view toward bringing about the person's nomination or election to office.

Kovall, Gary, Los Angeles County Bar Assn.
(1978) 4 FPPC Ops. 95 78-012

Expenses incurred by a county bar association in connection with direct communication with elective state or legislative officials concerning drafting or proposing legislation are reportable as payments to influence once there is direct communication with elective state or legislative officials concerning the legislation.

An employer's reimbursements for food, lodging and travel expenses of an employee who communicates directly with legislative officials as a member of a bar association's committee on legislation will not incur a reporting obligation if the employee's attempts to influence legislative action are not related to the work of the employer or if the employer has a uniform policy of allowing employees to engage in outside activities during normal working hours.

Layton, Rex E., City Clerk, Los Angeles
(1975) 1 FPPC Ops. 113 75-072

Late filing fees should not be assessed if a campaign statement is submitted on an incorrect form so long as all required information is included and the correct form is filed promptly. However, late filing fees should be assessed if unsigned forms are filed.

Leach, Charles F., Assistant City Attorney, Bakersfield
(1978) 4 FPPC Ops. 48 76-092

Neither the downtown business association nor the chamber of commerce is a local government agency. Therefore, neither organization need adopt a conflict of interest code. The employees and board members of these organizations are not consultants and need not be included in the city's conflict of interest code.

League of California Milk Producers
(1975) 1 FPPC Ops. 13 75-015

The employer of a lobbyist has not engaged in an exchange when its insurance company settles a claim

arising from an auto accident between one of its employees and a legislator so long as the employee took no part in the settlement negotiations.

Legan, Thomas L., County Supervisor, Santa Clara County
(1985) 9 FPPC Ops. 1 85-001

An official's employer, which was a major landowner in the hillside zone, would be affected in a manner distinguishable from the effect upon the general public with respect to a pending decision to double the permissible density on hillside property. The effect upon the value of the employer's property was sufficiently large so as to be considered material.

Leonard, Carl A., Bay Area Rapid Transit
(1976) 2 FPPC Ops. 54 75-042

Persons engaged in representing Bay Area Rapid Transit in quasi-legislative proceedings before the Public Utilities Commission are attempting to influence administrative action. The safety director of BART is not a lobbyist as a result of communicating with the PUC staff in compliance with a PUC order.

Lucas, Steven S.
(2000) 14 FPPC Ops. 14 0-00-157

For purposes of the permanent ban on certain types of post-government employment, a former Deputy Director of the Board of Equalization has "participated" in a decision when the official has taken part "personally and substantially" in it through various enumerated means. Where the official was responsible primarily for creation and implementation of general policies and had no personal involvement in the individual audits conducted by subordinate agency employees, the official will not be deemed to have "participated" in those audits for purposes of the permanent ban.

Lui, Elwood, Associate Justice, Court of Appeal
(1987) 10 FPPC Ops. 10 87-001

A judge who, in 1985 or thereafter, makes any contributions from personal funds must file campaign statements for the year in which the contributions were made. Contributions made by the judge's spouse from community property funds are considered to be contributions made by the judge. The judge's campaign filing obligation exists regardless of whether the judge

was running for office or whether the contributions were related to the judge's own candidacy.

Lumsdon, Thomas G., Attorney
(1976) 2 FPPC Ops. 140 75-205

When an individual and a closely held corporation in which the individual is the majority shareholder make contributions of the type described in Section 82013(c), it is assumed that they are a "combination of persons" which is attempting to influence the voters for or against the nomination or election of a candidate or the passage or defeat of a measure.

Accordingly, the individual and the corporation ordinarily must file campaign statements as a major donor committee if their combined contributions total \$5,000 or more. A corporation and an individual who is both the corporation president and a trustee in a foundation which owns the stock of the corporation need not cumulate contributions for the purpose of determining whether the corporation and the individual are a major donor committee unless there is an agreement or mutual understanding, expressed or implied, that corporate and personal funds will be contributed toward the accomplishment of a common goal.

Lunardi, Paul J.
(1975) 1 FPPC Ops. 97 75-046

A golf tournament held by a lobbyist and attended by public officials who pay their own entry fees does not constitute a gift so long as the entry fees paid by the officials cover the costs of the tournament.

Maloney, R. J., District Attorney, Glenn County
(1977) 3 FPPC Ops. 69 76-082

In performing engineering and survey work for the county on a contract basis, the county surveyor-engineer is not acting in the capacity of a "member, officer, employee or consultant of a state or local government agency," and therefore is not a "public official" subject to the conflict of interest provisions.

Masini, H. L., County Clerk, Fresno
(1976) 2 FPPC Ops. 38 75-171-B

The governing board of a district which pays or offers to pay for the cost of candidate qualification statements would not become a committee. The district would not become a committee by virtue of purchasing space in a

voters' pamphlet for the purpose of presenting arguments on both sides of a ballot measure. Therefore, the district would not be required to file a statement of organization or campaign statements.

McCarthy, P. H., State Building and Construction Trades Council
(1975) 1 FPPC Ops. 50 75-035

The State Building and Construction Trades Council is a state body of affiliated local building and construction trade councils, craft councils and local unions which employs a lobbyist and participates in political activities and makes contributions. The council may continue its political activities. No restrictions are imposed on the elected officers of the council so long as they are not lobbyists. An employee who spends 40 hours lobbying in a two-month period is required to register as a lobbyist regardless of the amount of his compensation. The \$1,000 test is an additional one applied to a person not spending 40 hours in lobbying activities.

McCormick, W. A., Los Angeles County Almanac
(1976) 2 FPPC Ops. 42 75-140

Donations received for the purpose of printing and distributing a political almanac are not contributions and, therefore, income from the sale of the almanacs should be reported by the committee as miscellaneous receipts.

Meyers, John, Republican Central Committee of Orange County
(1976) 2 FPPC Ops. 110 75-018

Once a person is a candidate, he is subject to the mass mailing sender identification provisions of the Act regardless of whether he has officially declared his candidacy.

The official newsletter of the Republican Central Committee of Orange County does not fall within the definition of "mass mailing" because it is sent only to subscribers who have requested it.

Miller, Anthony L., Secretary of State's Office
(1978) 4 FPPC Ops. 26 77-032

The Secretary of State is not prohibited from including signed arguments and rebuttals in the ballot pamphlet by virtue of the fact that she has filed a declaration of candidacy. With respect to materials bearing her name, the Secretary of State may include her own name on the "certificate of correctness" required to be inscribed in the pamphlet, but after she has filed a declaration of

candidacy she is prohibited from including a signed letter to the voters in the pamphlet. A majority of the Commission was unable to reach agreement with respect to inclusion of the Secretary of State's name on the cover of the pamphlet and therefore the Commission gave no advice with respect to this question.

Miller, Edwin L., District Attorney, San Diego
(1976) 2 FPPC Ops. 91 75-125

A chartered city does not have the authority to enact an ordinance which differs from and supersedes the campaign finance disclosure provisions of the Political Reform Act. A chartered city may, however, enact an ordinance which imposes additional disclosure requirements if such additional requirements do not prevent compliance with the Act.

Montoya, Joseph, Senator
(1989) 12 FPPC Ops. 7 89-006

Funds received by an elected officer to defend against a criminal indictment, where the criminal charges alleged in the indictment concern the elected officer's conduct in his capacity as an officeholder, are contributions, and subject to the limits of Proposition 73.

Moore, Richard J., County Counsel, Alameda
(1977) 3 FPPC Ops. 33 76-074

Pension benefits are salary from a local government agency and therefore are not income. Thus, the agency providing the pension benefits is not a source of income to the retired member.

A retired member of a county retirement board would not be prohibited from voting on various specified issues because the pension benefits are "salary" from a local government agency and therefore are not "income." Thus, the agency providing the pension benefits is not a source of income to the retired member and the retired member does not have a "financial interest" in the decisions.

Morgan, Claude D., Church State Council, Pacific Union Conference of Seventh-Day Adventists
(1975) 1 FPPC Ops. 177 75-005

The tenets of the Seventh-Day Adventist Church forbid members from joining labor unions. Thus, lobbying activities undertaken for the purpose of opposing the union shop are exempted from the reporting requirements of Chapter 6 because such activities protect the right of church members to practice the

tenets of their religion. Lobbying activities or payments to influence legislative action directed at reducing penalties for marijuana possession are not within the exemption of Section 86300 because the law in question does not affect the right of church members to practice the tenets of their religion.

Morrissey, John C., Pacific Gas & Electric Co.
(1975) 1 FPPC Ops. 104 75-065-C

A lobbyist is required to report the expense of a meal for another lobbyist if the expense is incurred in connection with his activities as a lobbyist.

Morrissey, John C., Pacific Gas and Electric Co.
(1975) 1 FPPC Ops. 130 75-066

Salary payments made by PG&E to its employees, some of whom may be legislative officials, agency officials, state candidates, or members of their immediate families, are not payments to influence legislative or administrative action.

Salary payments to company employees who are also legislative officials, agency officials, state candidates or members of the immediate families of such officials are reportable exchanges if the total salary paid exceeds \$1,000 in a calendar year. Routine fringe benefits are not included in determining whether the employee has received in excess of \$1,000, although benefits in lieu of wages are included. Salary payments are not payments to influence legislative and administrative action. The employer has no affirmative obligation to determine which employees are specified persons but must report on the basis of information in possession of the employer at the time of filing.

Morrissey, John C., Pacific Gas & Electric Co.
(1976) 2 FPPC Ops. 84 75-099

A member of the Bay Conservation and Development Commission's citizens advisory committee is not an agency official; therefore, salary payments to a member of the committee are not payments to influence legislative or administrative action. An employee who serves as a member of the committee is not a lobbyist in this case because the employee's duties are solely advisory.

Morrissey, John C., Pacific Gas & Electric Co.
(1976) 2 FPPC Ops. 120 75-120

The term "consultant" as used in the definitions of "legislative official" and "agency official" includes any

natural person who, under contract, provides information, advice, recommendation or counsel to the Legislature or a state agency, but does not include a person who (a) conducts research and arrives at conclusions with respect to his or her rendition of information, advice, recommendation or counsel independent of the control and direction of the agency or of any agency official, other than normal contract monitoring; and (b) beyond the rendition of information, advice, recommendation or counsel. Accordingly, independent contractors may be “consultants” if they are not excluded by the foregoing exceptions.

Naylor, Robert, Standard Oil Company of California
(1976) 2 FPPC Ops. 65 75-172

Salary payments and reimbursed expenses paid to an employee who participates on an engineers’ advisory committee are not payments to influence legislative or administrative action because the employee’s participation in the committee is not direct communication with an agency official carried out for the purpose of influencing administrative or legislative action.

Nejedly, John A., Senator
(1976) 2 FPPC Ops. 46 75-190

A state legislator is not prohibited from soliciting contributions of food, money or services for nonprofit organizations nor obligated to report such activities. A lobbyist may not, however, make a gift to the organization in order to obtain influence with the legislator.

Nida, Robert H., Automobile Club of Southern California
(1976) 2 FPPC Ops. 1 75-075-A

(1) Reporting hazardous traffic locations by an automobile club to state agencies and recommending corrective action does not constitute an attempt to influence administrative action; (2) the furnishing of data or factual materials will be reportable under certain circumstances; (3) commenting on proposed regulations constitutes an attempt to influence administrative action regardless of whether the comment is in response to a request from the agency; (4) discussion of enforcement policies with Highway Patrol personnel may constitute an attempt to influence administrative action.

Collection of an insurance premium is not a reportable exchange. Payments of claims may be reportable

exchanges when made to specified persons in amounts of \$1,000 or more.

Note: The California Supreme Court in FPPC v. Superior Court (IGA), 25 Cal. 3d 33 (1979), ruled that former Section 86107(d) and (e), and former Section 86109(d) and (e), which required the reporting of exchanges are unconstitutional.

Nida, Robert H., Automobile Club of Southern California
(1977) 3 FPPC Ops. 1 75-075-B

The occasional giving of publications and maps to legislators and agency officials does not constitute a gift because the materials are informational. Under some circumstances, however, the material could involve a reportable payment to influence legislative or administrative action.

The occasional giving of publications and maps to legislators and agency officials would involve a payment to influence under the following circumstances: providing the materials to support or assist the club’s lobbyist when he is attempting to influence a matter pending before the Legislature or a state agency; providing the material to a state agency (including the Legislature) or to an agency official at the request or suggestion of the lobbyist when it is related to an attempt to influence; providing the materials as part of an effort to influence some specific legislative or administrative action pending, regardless of whether the club’s lobbyist is involved in the effort; providing the materials directly to an official for his or her personal benefit; or providing the materials to the official for distribution to the public.

Nielsen, Vigo G., Dobbs & Nielsen
(1979) 5 FPPC Ops. 18 79-002

A major donor committee that makes in-kind contributions to a recipient committee is not required to report the names, addresses and salaries of the employees whose services constituted the in-kind contribution. The contribution must be reported as a payment to the recipient.

Nord, Steven F., Merced City Attorney
(1983) 8 FPPC Ops. 6 83-004

A limited partner has an investment in the controlling general partner of the limited partnership, if the limited partnership is “closely held.” This can require disqualification both as to decisions affecting the

general partner personally and as to decisions affecting “otherwise related business entities,” which includes businesses also controlled by the controlling general partner.

Oglesby, Thomas W., City Manager, Antioch
(1975) 1 FPPC Ops. 71 75-083

A councilmember would be disqualified from participating in a decision regarding adoption of a redevelopment plan based on his ownership of property within the redevelopment plan combined with ownership of property near the plan and a financial interest in a real estate firm which may be involved in selling property within the plan.

Olson, Lance H., Esq., Counsel for the California Democratic Party
(2001) 15 FPPC Ops. 13 O-01-112

Local Los Angeles ordinances requiring the political parties to disclose “member communications” prior to an election are preempted by the Political Reform Act because they impose “additional or different” filing requirements on the state party committees in areas of statewide concern.

Olson, Thomas F., California Farm Bureau Federation
(1975) 1 FPPC Ops. 107 75-067

Lobbyists may attend a dinner given for elected officers and legislative and agency officials, but may not participate in making arrangements for the dinner. Lobbyists may participate in delivering gift packs of agricultural products to invitees who did not attend so long as the value of the gift packs does not exceed \$10.

Overstreet, Martin, Berkeley Rent Stabilization Board
(1981) 6 FPPC Ops. 12 80-010

A Rent Control Board Member should not make, participate in making or use his official position to influence decisions which have a material financial effect on rental properties he owns distinguishable from their effects on a significant segment of the public generally. However, the rental property industry constitutes a significant segment of the public generally. The Commission also found that another board member should not make, participate in making or use her official position to influence decisions which would have a material financial effect on property she leases, distinguishable from the effect the decisions will have on

a significant segment of the public generally. Tenants also, however, constitute a significant segment of the public with respect to decisions implementing the rent control measure.

Owen, William L., City Attorney, Davis
(1976) 2 FPPC Ops. 77 76-005

Effect of downtown “core area” redevelopment on residential property owners is speculative and may be spread among residential properties throughout the city as well as those near the “core area.” Consequently, the effects of decisions concerning the “core area” on owners of residential property in or near the “core area” cannot be said to be distinguishable from the effects such decisions will have on a significant segment of the public generally. However, as the number of people owning buildings leased for commercial purposes is much smaller and as the effects on such persons and their interests will be much more direct and particular, the effects on such persons and their property are distinguishable from the effects on the public generally. Retail merchants lie somewhere between these two, but under the facts of this case, the official with such an interest may participate unless a particular aspect of the core area plan would have a singular effect on his business.

A planning commissioner who is a partner in a partnership which owns a vacant lot within the existing commercial zone of a core area and is in the process of constructing a commercial building thereon is disqualified from participating in decisions concerning the core area. A planning commissioner who owns a home which he uses as a residence across the street from one boundary of the core area in a neighborhood which is viewed as inextricably tied to the area in terms of planning considerations is not disqualified; and (3) a councilmember in a limited partnership in a retail business which leases space within an existing commercial building in the core area is not disqualified.

Pelham, LeeAnn, Executive Director, Los Angeles City Ethics Commission
(2001) 15 FPPC Ops. 1 O-00-274

1. A Los Angeles campaign ordinance prohibiting the deposit of campaign contributions until all donor information has been obtained does not conflict with Section 85700 ordering recipients of contributions to return the contribution within 60 days if all donor information has not been obtained. The Los Angeles

ordinance does not conflict with the Act because it does not impede compliance with the Act.

2. An elected state officer or candidate for elective state office may establish a legal defense fund under Section 85304 regardless of the individual's status as a local candidate or officeholder. However, if the individual establishes a legal defense fund created under the Los Angeles ordinance, that particular defense fund will be subject to the rules of that ordinance.

3. Under certain circumstances, the presumption that contributions received from minors are actually from the child's parents under Section 85308 may be overcome and a minor may be a contributor in his or her own right.

4. The City of Los Angeles may deposit laundered funds into its general fund when the action is brought under its local campaign finance law. The City of Los Angeles' ordinances are not preempted by state laws concerning the distribution of laundered funds because the state law only applies to violations of the state statutes.

Petris, Nicholas C., Senator
(1975) 1 FPPC Ops. 20 75-039

A candidate's controlled committee need not amend its statement of organization if it makes contributions to other candidates or propositions if the contributions are incidental to the general purposes of the controlled committee. The phrase "supports or opposes" in Section 84102(d) does not mean "incidental" support or opposition.

Presley, Robert, Senator
(1975) 1 FPPC Ops. 39 75-027

No conflict of interest arises because of an investment in a realty company unless at some time in the future the public official votes on a matter affecting his financial interest.

Rawlings, Katherine, Sacramento County Democratic Central Committee
(1975) 1 FPPC Ops. 62 75-053

It is unlawful for a registered lobbyist to contribute to or participate in a check-debiting plan which involves contributions to a political committee, and it is unlawful for the committee to knowingly receive such a contribution.

Reinhardt, Stephen, Winner/Wagner Assoc.
(1977) 3 FPPC Ops. 83 76-091

A consulting and campaign management firm which employs a lobbyist and has a lobbyist as a principal shareholder may manage a campaign of an elected state official seeking state office, and no prohibition exists so long as the firm and its employees adhere to the following conditions: (1) the firm must receive full and adequate consideration for any services it renders to the campaign; (2) the firm, acting through its employees, must not engage in any activities which would violate the prohibitions contained in Sections 86202, 86203 and 86205. This conclusion is applicable regardless of whether the candidate involved presently holds an elective office.

Note: The California Supreme Court in FPPC v. Superior Court (IGA), 25 Cal. 3d 33 (1979), ruled that Section 86202 which prohibited lobbyists from making political contributions is unconstitutional.

Rotman, Doreet
(1987) 10 FPPC Ops. 1 86-001

Members of redevelopment project area committees are "public officials" of a local governmental agency and are subject to the Act's disclosure and disqualification provisions. A statutory change requiring a two-thirds vote by legislative bodies to overrule recommendations by a project area committee makes the individuals who sit on project area committees "members" of local government agencies.

Rundstrom, Robert, Deputy County Counsel, Yolo County
(1975) 1 FPPC Ops. 188 75-084

Filing officers have discretionary authority in assessing late fines so long as their discretion is exercised on an impartial basis. However, once the filing officer provides written notice to the tardy filer he must, beginning five days after the mailing of the notice, assess a fine of \$10 per day from the filing deadline to the date the statement is filed.

Russel, Blanche, Holiday Inn of Hollywood
(1975) 1 FPPC Ops. 191 75-135

There are no restrictions or reporting requirements imposed on those who offer discounts to all state employees or on public officials who take advantage of such discounts if the discounts are uniformly offered to all state employees. The state government rate

offered in this case has not been offered on a uniform basis and is, therefore, income to the elected officers who receive it.

Russell, Newton, Senator
(1975) 1 FPPC Ops. 135 75-085

A legislator may not keep a contribution which was arranged by a lobbyist prior to the effective date of the Act but which was not delivered until after the effective date of the Act. By analogy to the California Gift Law, "delivery" of the contribution is required to complete the gift. Because the contribution remained in the association's office until after the effective date of the Act, the gift was not properly completed prior to the effective date of the Act.

Sampson, Patrick J., City Attorney, Pomona
(1975) 1 FPPC Ops. 183 75-058

When a special, general or runoff election is held less than 60 days following the primary election, candidates for an office contested in the primary election whose names do not appear on the ballot in the special, general or runoff election are not required to file a campaign statement seven days before the special, general or runoff election. They must file campaign statements not later than 33 days before the primary election, seven days before the primary election, and 65 days after the general or runoff election. If the special, general or runoff election for an office is not held, candidates for that office who were required to file for the primary election must file a post election campaign statement not later than 65 days after the primary election.

The anniversary statement of economic interests filed in 1975 by a city councilmember who was elected to office before the effective date of the Political Reform Act should cover only the period from January 7, 1975 (the effective date of the Act) to the officeholder's anniversary date of assuming office.

Sankey, Iris, State Board of Equalization
(1976) 2 FPPC Ops. 157 76-071

A public official who has a 50 percent equity interest in a parcel of property which is leased to a utility company must disqualify herself from participating in the assessment of the parcel of property in which she has the interest, and she must also disqualify herself from participating in the assessment of other property owned by the company.

Schabarum, Peter F., Los Angeles County Supervisor
(1975) 1 FPPC Ops. 95 75-041

The disclosure of the book and page number of a deed is not an acceptable method of designating the location of a principal place of residence which is required to be reported on a statement of economic interests. In order to comply with the Act, the street address or lot number or precise location of the principal place of residence must be disclosed.

Note: The requirement of reporting the location of the principal place of residence on a statement of economic interests has been repealed by legislative amendment to Section 87206.

Sherwood, Richard E., Los Angeles County Museum of Art
(1976) 2 FPPC Ops. 168 76-038

The receipt of salary supplements and other monies from a non-profit museum corporation by employees of a county museum of art will not preclude those employees from making, participating in making or using their official position to influence most of the decisions related to the management and operation of the museum.

Siegel, Samuel, City Attorney, Pico Rivera
(1977) 3 FPPC Ops. 62 76-054

Members of a water development corporation, a non-profit corporation formed for the purpose of providing a financing mechanism for acquiring portions of the water system serving a city, are public officials because the water development corporation is a local government agency. The following criteria have been developed for determining whether a non-profit corporation is a local government agency: (1) whether the impetus for formation of the corporation originated with a government agency; (2) whether it is substantially funded by, or its primary source of funds is, a government agency; (3) whether one of the principal purposes for which it is formed is to provide services or undertake obligations which public agencies are legally authorized to perform and which, in fact, they traditionally have performed; and (4) whether the corporation is treated as a public entity by other statutory provisions.

Sloan, Edwin F., California Hotel and Motel Assn.
(1976) 2 FPPC Ops. 105 75-169

The fire safety coalition of California is not an industry, trade or professional organization within the meaning of

Section 86109(b)(3), but rather a group of organizations with a common economic interest within the meaning of Section 86109(b)(4) and is therefore not required to list the names of its members on lobbyist employer reports.

Dues or similar payments for membership in a bona fide association, some portion of which is used to influence administrative or legislative action, need not be included in determining whether a person must file reports pursuant to Section 86108(b). In this case, however, because the coalition is not a bona fide association, payments to it are not “dues or similar payments for membership in a bona fide association,” and these payments, therefore, must be counted in determining whether the coalition member is required to file reports pursuant to Section 86108(b). Any organization already filing reports pursuant to Section 86108 must report the pro rata share of payments that the coalition utilizes to influence legislative or administrative action if that pro rata share is \$25 or more.

Smithers, Charles L., San Diego Gas & Electric Co.
(1975) 1 FPPC Ops. 42 75-028

It is prohibited for four lobbyists to host one dinner per month for legislators, even though no lobbyist spends more than \$10 per legislator per month because the dinners are arranged by the lobbyists jointly and the lobbyists would therefore be arranging for the making of a gift by other persons aggregating more than \$10 per month per person.

Sobieski, Ken, Long Beach Voter Registration Committee
(1976) 2 FPPC Ops. 73 75-204

The costs of distributing a voter registration mass mailing are expenditures when the materials are distributed by an official committee of a political party.

If 200 or more of voter registration materials are sent in a calendar month, the mailing is a “mass mailing.” Moreover, the costs of distributing the mailing are expenditures because the materials are distributed by an official committee of a political party. Accordingly, the mass mailing must be identified and mailed as required by Section 84305. However, the mass mailing is not “in support of or in opposition to a state candidate,” and a copy need not be mailed to the Commission.

Note: The requirement of sending copies of mass mailings to the Fair Political Practices Commission has been repealed by legislative amendment to Section 84305. A mass mailing is now over 200 pieces.

Solis, Hilda, L., State Senator
(2000) 14 FPPC Ops. 7 O-00-104

An elected state officer may accept a silver lantern worth from \$8,000 - \$10,000 as the recipient of the Profile in Courage Award from the John F. Kennedy Library Foundation, a nonprofit organization. The award meets the exception to the restrictions on gifts under FPPC Regulation 18946.5, because the award was won in a bona fide nationwide competition among statesmen unrelated to the recipient’s status as a California official.

Spellman, John Stephen
(1975) 1 FPPC Ops. 16 75-026

A legislative official’s participation in a tour of a nuclear power plant, arranged at the official’s request, falls under the “informational material” exception of “gift,” because informational materials include both tangible materials and intangible services which supply information in a useful form.

The entertainment of a lobbyist by a public official is not reportable.

Spero, Robert K., Addresses Unlimited
(1975) 1 FPPC Ops. 64 75-054

No filing requirements would be imposed on a company which provides mailing services to the Legislature by virtue of the fact that the company employs a sales representative who is also a registered lobbyist.

Stern, Ralph, The Big Five Association of Public School Districts
(1975) 1 FPPC Ops. 59 75-040

An association of five large school districts which is composed of members of their boards of education and their superintendents is not a lobbyist but is engaged in lobbying activity and must report under Section 86108(b).

Stone, Peter G., City Attorney, San Jose
(1977) 3 FPPC Ops. 52 77-003

Free air transportation provided to a public official may be a gift to the official’s agency, rather than to the official if the agency accepts the gift in accordance with specified procedures. To determine the value of a gift of free air transportation provided to an official, the official should attempt to estimate the fair market value of the trip. Depending on the circumstances, the official may utilize the commercial air rate or the charter rate divided by the number of passengers as guideposts in

estimating the value of the flight. If the filer believes that this amount standing alone is misleading, he may attach an explanation to his statement of economic interests. Providing free transportation to an official may be a gesture of neighborliness or friendliness, but will be a “gift” within the meaning of the Act if the costs of the trip are deductible as a business expense, if the donor has or will have business before the official, or if the transportation is normally the subject of an economic transaction.

Stull, John, State Senator

(1976) 2 FPPC Ops. 110 75-049

Once a person is a candidate, the mass mailing sender identification provisions apply regardless of whether the person has officially made a declaration of candidacy. Nothing in the Act prevents a candidate from delaying the declaration of candidacy to the 83rd day prior to the primary election, the last possible day on which a declaration must be filed.

Thomas, William, Assemblyman

(1977) 3 FPPC Ops. 30 76-085

A parking pass received by an official for use while on official business would be a gift if it is used for personal purposes unrelated to the official’s duties.

The value of the gift will be determined by the value derived from the use of the pass for personal purposes and the gift will be reportable if its value is \$25 or more.

If used only in connection with official business a parking pass given by a state agency to a legislator would not constitute a gift. If used for personal purposes, however, it would be a gift and would be reportable if its value is \$25 or more.

NOTE: The threshold for reporting gifts was increased by legislation from \$25 or more to \$50 or more.

Thorner, Tom, Marin Municipal Water District

(1975) 1 FPPC Ops. 198 75-089

Directors of a municipal water district who hold significant interests in business entities which may be affected by the district’s decisions on requests for variances and the lifting of a moratorium on new water connections must disqualify themselves when the decisions will have a foreseeable material financial effect, distinguishable from their effect on the public generally, on the directors’ interests.

Tobias, Kathryn J., California Integrated Waste Management Board

(1999) 13 FPPC Ops. 5 O-99-156

The spouse of a member of the California Integrated Waste Management Board owns stock in companies that may be subject to a board program that sets recycling rates. Under the Public Resources Code, the board is the only agency authorized to set the recycling rates, and must do so annually. At the time the recycling rates were to be set, the six-member board had two vacancies. Out of caution, the potentially disqualified member abstained from the decision to set the recycling rates. By abstaining, the board lacked the quorum necessary to set the recycling rates.

Under the “Rule of Legally Required Participation,” which is a narrow exception to the Political Reform Act’s conflict of interest rules, the member of the board may participate in the decision when there is no alternative source of decision. Here, there is no alternative source of decision because the decision cannot be delayed; the board is the only body authorized to make the decision; there is no indication when the vacancies will be filled; and the board has no authority to fill the vacant positions. This opinion is limited to the facts described therein.

Torres, Art, Assemblyman

(1976) 2 FPPC Ops. 31 75-163

Wedding gifts should be considered the property of both spouses unless they are peculiarly adaptable to the personal use of one spouse or specifically and unequivocally intended for use by one spouse. Therefore, wedding gifts may be reportable by the official even if they were received by the spouse prior to the wedding. The official must disclose only those gifts in which his interest exceeds the \$25 threshold for reporting gifts. Therefore, only gifts, the total value of which is \$50 or more will be reportable. When a single gift worth \$50 or more is given by many donors, it is sufficient to describe in general terms those who gave it. The official must only report the name of each donor who contributed \$50 or more.

Tuteur, John, Supervisor, Napa County

(1976) 2 FPPC Ops. 110 75-071

Payments made from personal funds by a public official for a newsletter to his or her constituents do not constitute an expenditure so long as the newsletter makes no reference to an upcoming election or to the official as a candidate.

Valdez, Joyce, Golden Circle of California
(1976) 2 FPPC Ops. 21 75-167

A copy of a mass mailing soliciting membership dues or campaign contributions, which money will be used in support of state candidates, must be sent to the Commission.

Note: The requirement of sending copies of mass mailings to the Fair Political Practices Commission has been repealed by legislative amendment to Section 84305.

Vonk, James J., State Compensation Insurance Fund
(1981) 6 FPPC Ops. 1 80-008

The State Compensation Insurance Fund is an agency within the meaning of Section 87300 and it makes governmental decisions within the meaning of Sections 87100 and 87302(a).

Wallace, L. T., Director of the Department of Food and Agriculture
(1975) 1 FPPC Ops. 118 75-087

Payments made by Del Monte Corp. to an employee of the Department of Food and Agriculture as compensation for research conducted on the employee's personal time and not directly related to his work for the agency are not reportable by Del Monte because the employee is not an agency official.

Salary payments by a lobbyist employer to a state employee retained on a part-time basis are not reportable because the employee is not an agency official since he does not participate in any administrative action.

Welsh, Melinda, Valley Oak Institute for Voter Registration
(1978) 4 FPPC Ops. 78 78-011

Organizations do not incur reporting obligations under the Political Reform Act by reason of nonpartisan voter registration activities.

Willmarth, Francis, California Democratic Council
(1976) 2 FPPC Ops. 130 75-188

Dues received by political clubs whose primary purpose is other than supporting candidates and/or ballot measures are not contributions unless the dues are "earmarked" for the making of contributions or expenditures. A payment is "earmarked" when the donor knows or has reason to know that the payment will be used to make contributions or expenditures.

Witt, John W., City Attorney, San Diego
(1975) 1 FPPC Ops. 1 75-044

Local government agencies are "persons" within the meaning of Section 86108, and local government agencies which employ lobbyists or which make payments to influence legislative or administrative action of \$250 or more in value in any month, unless all of the payments are of the type described in Section 82045(c), are required to file statements under Section 86109.

Note: Legislation has amended the Act so that only persons who spend \$5,000 in a quarter (rather than \$250 a month) need file.

Witt, John W., City Attorney, San Diego
(1975) 1 FPPC Ops. 145 75-057

A gift of food and beverages to another lobbyist is reportable if it is made in connection with influencing legislative or administrative action. The lobbyist's employer must report the total amount of the payment to the lobbyist but need not duplicate the lobbyist's itemization of expenses.

Wood, William P., Chief Counsel, Secretary of State
(1999) 13 FPPC Ops. 21 O-99-315

For purposes of imposing penalties for late filing of a statement or report under Section 91013 of the Act, the paper version and the electronic version of a statement or report are each considered to be an original. The deadlines set out in Section 91013(a) apply to both the original electronic filing and the original paper filing submitted by a file.

Zenz, Robert L., California State Employees Assn.
(1975) 1 FPPC Ops. 195 75-156

An employee of a legislative advocate who is supervised by a lobbyist may not make or arrange a contribution or gift which the lobbyist would be prohibited from making unless it is clear that the contribution or gift is not intended to further the goals of the lobbyist and is outside the scope of the agency relationship.

Note: The California Supreme Court in FPPC v. Superior Court (IGA), 25 Cal. 3d 33 (1979), ruled that Section 86202 which prohibited lobbyists from making political contributions is unconstitutional.